

Spencer Conservation Commission Filing a Request for Determination of Applicability (RDA)

Step 1: Fill out the Permit Application

Use eDEP to **complete WPA Form 1 (RDA)** - edep.dep.mass.gov/ available for download.
The same forms may be used to file under the Spencer Wetlands Protection Bylaw.

Step 2: Submit the Following Application Materials to the Spencer Conservation Department

Plan your submission date based on the hearing schedule. The Conservation Commission generally meets on Wednesdays, on the second and fourth week of the month – please contact the Conservation Department for exact dates or visit www.spencer.ma.gov/conservation-commission . Applications are due by 4:00pm on Wednesday, 21 days in advance of the Commission's meeting. Application materials may be hand delivered or mailed: **Spencer Conservation Commission, 157 Main Street, Spencer, MA 01562.**

(A) RDA Application - two (2) copies double-sided

- Signed WPA Form 3 (RDA)
- Check to "Town of Spencer" for Bylaw Filing Fee
- Check to "Town of Spencer" for Legal Notice Fee

Please

- No plastic covers or TOC
- No page dividers or bindings
- Staples are OK
- Print materials double-sided
- **Fold plans**

(B) Project Narrative and Image of Project Plan - two (2) copies

- A brief explanation of the proposed project must be provided. Please be as specific as possible to explain the work that will be done and the reason for the project.
- A visual representation of the project must be provided to show the project area in relation to the pond, intermittent stream, or wetland. This does not need to be professionally prepared.
- If erosion controls are being used, they must be shown.

Step 3: Email the Electronic Submission to conservation@spencerma.gov

- Entire RDA Application – DO NOT INCLUDE CHECKS
- Image of project plan

Step 4: Submit your Application to the Department of Environmental Protection

- One copy of the entire submission (described above) along with photocopy of the checks submitted to the Town and the State to:

Mass DEP Central Regional Office - Worcester, 8 New Bond Street, Worcester, MA 01606.

Step 5: You will be Given a Hearing Date and Time

By submitting a **complete** RDA application, you will be scheduled to attend the next available public hearing. Incomplete applications will not be accepted by the Conservation Office. **The applicant or their representative must be present at the scheduled public hearing.**

Step 6: Conservation Commission will Conduct a Site Visit

The Commission and their staff will perform a site visit to confirm the existing conditions and resource area delineation. The applicant will be notified about the date and time of the site visit.

Step 7: Attend a Public Hearing

When application is presented to the Commission, a Power Point presentation may be used. Please notify the Clerk or Conservation Agent prior to the hearing if you intend to utilize the audio and visual connection.

Step 8: Receive Decision from the Conservation Commission

An RDA determines if a project is subject to the Wetlands Regulations or will not have a negative impact to the wetland. After reviewing the information, visiting the site, and conducting a public meeting, the Conservation Commission issues either a "Negative" or "Positive" Determination of Applicability (DOA). Given a negative determination, the project may go forward; given a positive determination, the applicant must submit a Notice of Intent (NOI).

Pre and Post Construction Reminders

- ANY AND ALL deviations from the approved plan must be approved by the Conservation Department prior to said changes being executed.
- Request a Certificate of Compliance from the Conservation Commission and record it at the Worcester Registry of Deeds.



SPENCER MASSACHUSETTS

RDA APPLICATION REVIEW CHECKLIST

Spencer Conservation Commission Required Application Contents

Updated 1/10/2022

Site Address: _____
Applicant Name: _____
Representative Name: _____

DEP #: NA
Phone: _____
Phone: _____

Check items included. Circle missing items.

- ☐ Completed WPA Form 1 – RDA
- ☐ A photocopy of the checks used to pay fees: 2 separate checks, including bylaw fee.
DO NOT INCLUDE CHECK IN ELECTRONIC FORMAT.
- ☐ A signed copy of the Application Process Signature Form.
- ☐ Signed Site Visit Access form.
- ☐ A project narrative and with visual representation of proposed project.

Two complete paper sets and one digital set of all materials (except copies of checks) shall be submitted. Additional information may be requested: e.g. DEP Wetland Delineation Field Forms, after initial review.

Any revisions must be submitted NO LESS THAN 7 (SEVEN) DAYS to the hearing date. Revisions submitted less than seven days prior may not be accepted or may lead to a continuance.

Applicants be advised, electronic submission is required in addition to TWO (2) hard copies of all documents, EXCEPT photocopies of checks.

DO NOT INCLUDE PHOTOCOPIES OF CHECKS IN ELECTRONIC SUBMISSION.

IF AN ELECTRONIC COPY IS SUBMITTED WITH A COPY OF CHECKS, THE ELECTRONIC COPY WILL NOT BE ACCEPTED AND APPLICANTS WILL BE ASKED TO RESUBMIT.

Electronic submissions should be sent to conservation@spencerma.gov.



SPENCER MASSACHUSETTS

APPLICATION PROCESS SIGNATURE FORM

There are three different application that can be submitted to undertake work in a jurisdictional area: a Notice of Intent (NOI), a Request for a Determination of Applicability (RDA) and an Administrative Approval. All three application have different criterial for submission and approval and the NOI & RDA are governed by both state law and the local by-law, whereas the administrative approval is governed by the local by-law only.

When potential applicant requests advise from the Conservation Agent on which application to file, the opinion of the Agent is based on information given by the potential applicant and any other information available to the Agents, e.g. the town's GIS system. The Agent has no legal right to go onto private property at any time until after and application is filed, or permission of the property owner is given.

It is important that all applicants understand that after an applicant is filed, additional information may come to light e.g. via a field inspection or application review, that may impact the scope of the submitted application and the approval process. In addition, the Agent is not the final approval authority on RDA's and NOI's, that authority rests with the Commission. Therefore, it is the applicant who has the ultimate responsibility to decide which application to file.

Considering the above, please sign below indicating an understanding of the policy and submit it with the application.

Signature of Applicant

Date



SPENCER MASSACHUSETTS

SITE VISIT ACCESS

"The conservation commission, its members and agents, and the Department employees may enter upon privately owned land for the purpose of performing their duties under M.G.L. c. 131, § 40, and 310 CMR 10.00." 310 CMR 10.08(1).

Prior to the approval of the project at _____ (street address), the Spencer Conservation Commission aims to schedule an in-person site visit and complete an inspection report. The Commission will contact the applicant or representative to schedule the initial visit and may request the presence of the applicant(s) or a representative.

Throughout the duration of the project, the Spencer Conservation Commission may conduct additional inspections to: ensure that the project is being executed within the parameters of the Order of Conditions (if applicable), inspect erosion control, inspect the site for disturbances caused by extreme weather conditions, or if there is a suspicion of a violation of the Wetlands Protection Act, 310 CMR.

A copy of any and all inspection reports completed by the agent, or its members can be requested, if one is not provided, for no cost.

☐ I grant the Spencer Conservation Commission permission to enter the property for the purpose of performing their duties if I (the applicant) am not present or unavailable, until a Certificate of Compliance has been issued.

☐ I DO NOT grant the Spencer Conservation Commission permission to enter the property for the purpose of performing their duties if I (the applicant) am not present or unavailable.

Please note that if the Commission is unable to fulfill their responsibilities and inspect the property to the best of their ability, the application may be denied and/or a Certificate of Compliance may not be issued upon completion.

Applicant/Representative Name

Applicant/Representative Signature

Date



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program

WPA Form 1 Request for Determination of Applicability
Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40)
Instructions and Supporting Materials

Instructions for Completing Application
WPA Form 1 – Request for Determination of Applicability

Please read these instructions before completing the Request for Determination of Applicability (WPA Form 1) for more information on certain items that are not self-explanatory.

Purpose of the Request for Determination of Applicability

The Request for Determination of Applicability is a process which provides applicants with the *option* of seeking a determination on the applicability of the Wetlands Protection Act (the Act) to a proposed site or activity. Before filing this form to confirm the boundary delineation of a resource area, the applicant should discuss other delineation review options with the Conservation Commission. The Commission may require the submission of WPA Form 4A (Abbreviated Notice of Resource Area Delineation), WPA Form 3 (Notice of Intent), or WPA Form 4 (Abbreviated Notice of Intent).

The applicant is responsible for providing the information required for the review of this application to the issuing authority (Conservation Commission or the Department of Environmental Protection). The submittal of a complete and accurate description of the site and project will minimize requests for additional information by the issuing authority which may result in an unnecessary delay in the issuance of a Determination of Applicability.

The issuing authority also may require that supporting materials (plans and calculations) be prepared by professionals including, but not limited to, a registered engineer, registered architect, registered landscape architect, registered land surveyor, registered sanitarian biologist, environmental scientist, geologist, or hydrologist when the complexity of the proposed work warrants specialized expertise.

To complete this form, the applicant should refer to the wetlands regulations (310 CMR 10.00) which can be obtained from the Department's web site at www.mass.gov/dep. Regulations are available for viewing at public libraries and county law libraries across the state, as well as at the Department's Regional Service Centers. Regulations also are available for sale from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378).

Completing WPA Form 1

Section B: Determinations. The Request for Determination of Applicability can be used for a variety of purposes. Check one or more of the boxes under the following circumstances.

1a. To determine whether the Act applies to a particular area of land. Areas subject to jurisdiction are described in the wetlands regulations at 310 CMR 10.02.

1b. To confirm the precise boundaries of any delineated wetland resource area. NOTE: before checking 1b., consult the Commission to determine whether it will provide confirmation of wetland resource area boundaries in response to the filing of WPA Form 1. If the request is filed for a determination of Bordering Vegetated Wetlands (BVW) boundary, the Commission may require applicants to file WPA Form 4A (Abbreviated Notice of Resource Area Delineation), WPA Form 3 (Notice of Intent), or WPA Form 4 (Abbreviated Notice of Intent) to obtain confirmation.

1c. To determine whether the Act applies to work which is planned within a wetland resource area or within the Buffer Zone to a resource area. Work subject to jurisdiction is described in the wetlands regulations at 310 CMR 10.02.



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1d. To determine whether the city or town has a local wetlands ordinance or bylaw which applies to any particular area of land and/or to work which is planned within this area of land.

1e. To determine the scope of alternatives to be considered for work in the Riverfront Area. The scope of alternatives which must be considered for various types of projects in the Riverfront Area is contained in the wetland regulations at 310 CMR 10.58(4)(c)2.

In order for the reviewing agency to obtain a complete description of the project site, resource area boundaries must be clearly delineated. Further explanation of Boxes 1a – 1e follows.

Resource Areas: Boundaries.

For boundaries of inland resource areas (including the Riverfront Area, which may be either inland or coastal), refer to subsection (2), "Definitions, Critical Characteristics and Boundaries" for each resource area covered under 310 CMR 10.54 – 10.58.

For boundaries of coastal resource areas, refer to the definitions in 310 CMR 10.04 and 10.24 for each resource area covered under 310 CMR 10.25 – 10.35, as well as in the text of Section 10.25 – 10.35.

The boundary of the Buffer Zone is determined by measuring 100 feet horizontally from those areas specified in 310 CMR 10.02(1)(a).

1a. Describe the site and, if possible, the boundary of any area that may be subject to protection under the Act (including the Buffer Zone).

1b. As noted earlier, 1b, should only be checked with approval of the Conservation Commission. If checked, submit:

- plans identifying the precise boundaries of the resource area(s) delineated;
- method used to determine the boundaries of Bordering Vegetated Wetland. Note whether the boundary was delineated based on the presence of one or more of the following:
 - 50% or more wetland indicator plants
 - Saturated/inundated conditions
 - Groundwater Indicators
 - Direct Observation
 - Hydric soil indicators
 - For disturbed sites: specific, credible evidence of conditions prior to disturbance.

Use one of the methods indicated above to determine the boundaries of Bordering Vegetated Wetlands (BVW). On the form, check all the methods that are used to determine the boundary. These methods are discussed in the wetland regulations at 310 CMR 10.55(2)(c). When undertaking BVW delineations, whether by vegetation alone or by vegetation and other indicators of wetland hydrology, applicants are encouraged to use the Department's BVW Handbook: *Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act* (1995). This document is available for purchase from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378). The Department encourages applicants to complete the BVW Field Data Form contained in the handbook and submit it with the Request for Determination of Applicability. If detailed vegetative assessments are not required for a particular site, the reasons should be noted on the Field Data Form.

1c. Describe the boundaries of all resource areas and Buffer Zones where work will occur or which could be impacted by the work.



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1d. Describe the site, and if possible, the boundary of any area that may be subject to a municipal wetlands ordinance or bylaw. If there are areas on the site which are not subject to the Wetlands Protection Act, but which may be subject to a municipal wetlands ordinance or bylaw (if any), specifically note the boundaries of such areas. Describe all areas where work is planned if such work may be subject to a municipal wetlands ordinance or bylaw.

1e. Indicate the precise location of all work relative to the boundaries of the Riverfront Area.

Section C: Project Description. In this section, the applicant must describe the area and proposed work (if any) subject to the Request. The type of information required depends, in part, on the type of determination requested in Section B. In all cases, the applicant should describe the site based on resource areas jurisdiction and boundaries under the Wetlands Protection Act and regulations.

1a. Location. Include a street address (if one exists) and, if known, the Assessors map or plat number, the parcel number, and the lot number. The map or plat, parcel, and lot numbers must be included if the lot subject to the Request does not contain a residence, school, or commercial or industrial establishment, or if the lot is being subdivided.

1b. Area Description. The area should be described in narrative form. If needed, attach additional sheets for a more complete description of the area; a map or plan may also be used as part of the area description (see instructions for 1c for plan and map requirements).

1c. Plan and/or map reference(s). On the application form, list the titles of all attached plans and maps, as well as, the most recent revision date.

Submit an 8.5" x 11" section of the U.S. Geologic Survey (USGS) quadrangle or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site.

Plans should be of adequate size, scale, and detail to completely and accurately describe the site, resource area boundaries, and proposed work. The following guidelines are provided to encourage uniformity:

Sheet Size

- Maximum 24" x 36"
- If more than one sheet is required to describe the proposed site and/or proposed work, provide an additional sheet indexing all other sheets and showing a general composite of all work proposed within the Buffer Zone and areas subject to protection under the Act

Scale

- Not more than 1" = 50'
- If plans are displayed, include graphical scales

Title Block

- Included on all plans
- Located at the lower right-hand corner, oriented to be read from the bottom when bound at the left margin.
- Include original date plus additional space to reference the title and dates of revised plans



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2a. Work Description. Work subject to the jurisdiction of the Wetlands Protection Act is described in 310 CMR 10.02. If the Request is for determining jurisdiction over proposed work, the applicant is asked to describe the work in detail. Proposed work can be described in narrative form. If needed, attach additional sheets for a more complete description of the work; a map or plan may also be used to describe the work (see instructions in 1c for plan and map requirements).

Provide the following information, depending on which boxes were checked under Section B:

1c. Describe the proposed work and its precise location relative to the boundaries of each wetland resource area and the Buffer Zone on the site.

1d. Describe the proposed work and its precise location relative to the boundaries of areas which may be subject to municipal wetland ordinance or bylaw.

1e. Describe the proposed work and its precise location relative to the boundaries of the Riverfront Area.

2b. Exemptions. Exemptions are allowed under the Wetlands Protection Act for certain mosquito control, commercial cranberry bogs, agricultural, and aquacultural projects and for projects authorized by Special Act prior to 1/1/73. These exemptions are defined, in part, in 310 CMR 10.03(6) and in the definitions of agriculture and aquaculture in 310 CMR 10.04. In addition, there are exemptions for certain stormwater management projects (310 CMR 10.02(3)); specific minor activities in the Buffer Zone (310 CMR 10.02(2)(b)); and certain other projects in the Riverfront Area (310 CMR 10.58(6)(b)).

3a. Riverfront Area Scope of Alternatives. Complete this section *only* if 1e. under Section B is checked. In 3a, check one box that best describes the project. The classifications listed in 3a and the scope of alternatives which projects in each classification must analyze are explained in 310 CMR 10.58(4)(c)2.

Section D: Signatures and Submittal Requirements

A completed WPA Form 1, with all attachments, must be submitted to the Conservation Commission. Applicants also must send a copy of WPA Form 1 and all attachment to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community> for locations of regional offices and the communities they serve) and to the property owner, if different from the applicant. **The original and copies must be sent simultaneously.** Failure by the applicant to send the copies in a timely manner may result in dismissal of the Request for Determination of Applicability

Fees

There is no application fee for the Request for Determination of Applicability. However, a notice of the application must be placed in a local newspaper, and published at least five days prior to the hearing, at the applicant's expense. Please contact your Conservation Commission regarding the procedure for public newspaper notice.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

City/Town _____

A. General Information

Important:

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Name _____

E-Mail Address _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

2. Representative (if any):

Firm _____

Contact Name _____

E-Mail Address _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

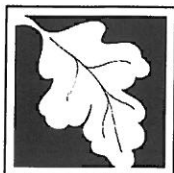
B. Determinations

1. I request the _____ make the following determination(s). Check any that apply:
Conservation Commission

- ☐ a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- ☐ b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- ☐ c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- ☐ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Name of Municipality

- ☐ e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



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C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

Street Address _____

City/Town _____

Assessors Map/Plat Number _____

Parcel/Lot Number _____

- b. Area Description (use additional paper, if necessary):

- c. Plan and/or Map Reference(s):

Title _____

Date _____

Title _____

Date _____

Title _____

Date _____

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):



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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- ☐ Single family house on a lot recorded on or before 8/1/96
- ☐ Single family house on a lot recorded after 8/1/96
- ☐ Expansion of an existing structure on a lot recorded after 8/1/96
- ☐ Project, other than a single-family house or public project, where the applicant owned the lot before 8/7/96
- ☐ New agriculture or aquaculture project
- ☐ Public project where funds were appropriated prior to 8/7/96
- ☐ Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- ☐ Residential subdivision; institutional, industrial, or commercial project
- ☐ Municipal project
- ☐ District, county, state, or federal government project
- ☐ Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)



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City/Town _____

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Name

Mailing Address

City/Town

State

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Signature of Applicant

Date

Signature of Representative (if any)

Date